

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EXPORT-IMPORT BANK OF THE	:	
UNITED STATES,	:	
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Plaintiff-Judgment Creditor,	:	ECF Case
	:	
-v-	:	
	:	03 Civ. 8554 (DCP)(JCF)
ASIA PULP & PAPER CO, LTD.,	:	
	:	
Defendants-Judgment Debtors,	:	
	:	

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~~PROPOSED~~ ORDER REGARDING SANCTIONS HEARING

WHEREAS, on July 21, 2009, the Court entered an order (the "Sanctions Order") requiring defendants-judgment debtors Asia Pulp & Paper Co., Ltd., PT Indah Kiat Pulp & Paper Tbk ("Indah Kiat"), PT Pabrik Kertas Tjiwi Kimia Tbk, and PT Pindo Deli Pulp and Paper Mills (collectively, the "Judgment Debtors"), to comply, by July 31, 2009, with the Court's May 8, 2009 order compelling a response to certain discovery requests;

WHEREAS, the Sanctions Order contained a schedule of fines that the Court anticipated would be entered for each day the Judgment Debtors failed to comply with this July 31, 2009 deadline;

WHEREAS, on July 28, 2009, the Court entered an order (the "Amended Sanctions Order") that maintained the July 31, 2009 deadline but modified the schedule of anticipated fines;

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WHEREAS, on July 28, 2009, the Judgment Debtors requested an opportunity to present "oral evidence," pursuant to Local Civil Rule 83.9, before the imposition of such fines;

WHEREAS, on July 28, 2009, the Court advised the Judgment Debtors to choose a date for a hearing for the presentation of such oral evidence, but the Judgment Debtors have not yet proposed such a date;

WHEREAS, plaintiff Export-Import Bank of the United States ("Ex-Im") has advised the Court that the Judgment Debtors have not complied with the July 31, 2009 deadline; and

WHEREAS, Ex-Im has requested the scheduling of a prompt sanctions hearing, if the Judgment Debtors continue to desire one, and the imposition of the monetary fines set forth in the Amended Sanctions Order.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. A sanctions hearing is hereby scheduled for Sept 30, 2009, at 10 a.m. in Courtroom 2, U.S. Court of International Trade, One Federal Plaza, New York, New York. At this hearing, the Judgment Debtors shall show cause why the monetary sanctions listed in the Amended Sanctions Order should not be imposed. The Judgment Debtors and Ex-Im may submit oral or documentary evidence at this sanctions hearing, if they desire.

2. No later than 21 days prior to the hearing:

a. The Judgment Debtors shall advise the Court whether they continue to desire a sanctions hearing. If they fail to so advise the Court, or if they advise the Court that they no

longer desire a sanctions hearing, their request for an opportunity to submit oral evidence shall be considered abandoned, the hearing shall be canceled, and an order imposing monetary sanctions shall issue forthwith.

- b. The Judgment Debtors shall provide Ex-Im with a list of witnesses that the Judgment Debtors intend to call at the hearing.

- 3. No later than 14 days prior to the hearing:

- a. Ex-Im shall provide the Judgment Debtors with a list of any witnesses that the Judgment Debtors intend to call at the hearing.

- b. The Judgment Debtors shall file and serve a proposed order, and may file and serve a memorandum in support thereof.

- 4. No later than 7 days prior to the hearing:

- a. Ex-Im shall file and serve a proposed order, and ^{and the Judgment Debtors shall} ~~may~~ file and serve a memorandum in support thereof.

- 5. The Judgment Debtors and Ex-Im shall each make their witnesses available for deposition by the other party in advance of the hearing.

SO ORDERED:



DONALD C. POGUE
Judge (Sitting by Designation)

Dated: 8/25, 2009